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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,132	05/24/2000	Rainer H Wischinski	SAA-39	5531

7590 02/09/2004  
Larry I Golden  
Square D Company  
1415 South Roselle Road  
Palatine, IL 60067

EXAMINER

PHAM, THOMAS K

ART. UNIT	PAPER NUMBER
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2121

13

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/578,132

**Applicant(s)**

WISCHINSKI, RAINER H

**Examiner**

Thomas K Pham

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. This action is in response to request for re-consideration filed on 12/12/2003.
2. Claims 1-7 have been considered but they are moot in view of the new ground(s) of rejection.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogushi et al. U.S. Publication 2002/0029086 (hereinafter Ogushi) in view of Gronemeyer et al. U.S. Patent no. 6,363,359 (hereinafter Gronemeyer).

**Regarding claim 1**

Ogushi teaches a system for remote configuration monitoring of an industrial control system (abstract), the system comprising: a device identifier (35) (fig. 1, element 108), for determining components of an automation or control device (26) (fig. 1, elements 107) included in the industrial control system (20) by periodically querying the device (26) to obtain from the device (26) information identifying at least some of its component hardware, software, and firmware, the device identifier (paragraph 32, "The host computer 108 ... the respective factories 102 to 104") for providing a device database (33) with component identifications for the device (26) (paragraphs 37 and 38, "If it is determined ... in the trouble database") but does not teach a

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device configuration manager (36), responsive to the component identifications in the device database (33), and further responsive to available device components in a database (34) of available device components, for comparing the installed device components with the available device components and for providing an offer to upgrade installed device components. However, Gronemeyer teaches a method of providing goods and services based on an automation detection of a client's configuration comprising sentinel for device configuration managing, responsive to the component identifications in the client (col. 2 lines 50-57, "A sentinel is responsible ... past purchase decisions"), and further responsive to available device components in vendor database of available device components, for comparing the installed device components with the available device components and for providing an offer to upgrade installed device components (col. 6 lines 15-34, "In response to receiving ... computing device's configuration."). Therefore, it would have been obvious to incorporate the system of Gronemeyer with the remote configuration management device of Ogushi because it would provide for offering the goods or services for sale based on an automatic detection of the client's system configuration.

**Regarding claim 2**

Gronemeyer teaches a system diagnostics manager, responsive to the component identifications in the device database, and further responsive to a third party technical support and diagnostics information database, for providing device status queries, and for updating the diagnostics information database based on responses to the device status queries (col. 7 line 65 to col. 8 line 14, "the sentinel locates ... the computing device.").

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**Regarding claim 3**

Ogushi teaches the components of pre-determined automation or control devices are programmable logic controllers (page 2 paragraph 31 and 32, “The host computer 108 ... factories 102 to 104”).

**Regarding claim 5**

Gronemeyer teaches a general technical information database, for providing general technical information about products organized by topic, and further wherein the general technical information made about a topic, thereby providing feedback on the usability of products (col. 5 lines 49-58, “it is assumed that the ... selected server category”, and col. 6 lines 35-47, “if a user of a client ... predicted needed items”).

**Regarding claim 6**

Gronemeyer teaches the record of requests for information made about a topic includes an identification of the requester (col. 5 lines 49-58, “it is assumed that the ... selected server category”).

**Regarding claim 7**

Gronemeyer teaches the device identifier queries the devices via the Internet (abstract).

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogushi in view of Gronemeyer and further in view of Babu et al. U.S. Patent No. 6,122,639 (hereinafter Babu).

**Regarding claim 4**

Ogushi and Gronemeyer teach a system with a device identifier communicates with the components of pre-determined automation or control devices but do not teach the

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communication via a wireless access protocol. However, Babu teaches a communication via a wireless access protocol (col. 22 lines 6-20, "Communication system 500 ... various types of information"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the wireless communication of Babu with the remote maintenance system of Ogushi and Gronemeyer because it would provide for communicating via wireless access protocol as to widen the communication interface in conjunction with the Internet.

### ***Response to Arguments***

In the remark the applicant argues that cited reference fails to disclose:

- I) "a device identifier element determine components of an automation or control device included in an industrial control system" as to claim 1.
- II) "a device configuration manager, responsive to the component identifications in the device database, and further responsive to available device components in a database of available device components, for comparing the installed device components with the available device components and for providing an offer to upgrade installed device components" as to claim 1.

In response to applicant's argument,

- I) It is noted that prior art (Ogushi et al. U.S. Publication 2002/0029086) teaches (in figure 1, element 108) and (paragraph 23, "The host computer 107 in each of the factories 102 to 104 is connected to a host computer 108 serving as the management apparatus on a vendor 101 side ...") where the host computer 108 is a device identifier (35), for determining the client's system

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configuration by communicating with host computer 107 as included in the industrial control system. Therefore, limitations are met by the reference.

II) Prior art (Gronemeyer et al. U.S. Patent no. 6,363,359) also teaches in the field of invention (column 1 lines 7-9, "relates to offering goods and services for sales based on an automatic detection of a client's configuration") and (column 2 lines 50-53, "A sentinel is responsible for inspecting the client computing device and determining needed goods or services based on the configuration of the client computing device.") and (column 6 lines 15-18, "In response to receiving the client computing device's configuration information, the server sends 122 the client computing device information concerning available upgrades and updates for the client computing device"). Therefore, it is clear that the field of invention of Gronemeyer is directly related to application as claimed in term of remotely collecting information of the devices in order to suggest available upgrades or updates to the existing devices. Thus, Examiner believes that it would have been obvious to incorporate system of Gronemeyer with the remote configuration management device of Ogushi because it would provide for offering the goods or services for sale based on an automatic detection of the client's system configuration. Therefore, limitations are met by the reference.

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***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (703) 305-7587 and fax number is (703) 746-8874. The examiner can normally be reached on Monday-Thursday and every other Friday from 7:30AM- 5:00PM EST or contact Supervisor, *Mr. Anil Khatri*, can be reached on (703) 305-0282.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

**Thomas Pham**  
*Patent Examiner*

TP

February 9, 2004



**GEORGE B. DAVIS**  
**PRIMARY EXAMINER**